

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

IN RE

GILBERTO CASTRO NIEVES  
LILIA MARIA MUNOZ VINUEZA

Debtor(s)

CASE NUMBER: 10-01579-ESL

CHAPTER 13

**TRUSTEE'S MOTION TO MODIFY PLAN  
NOTICE AND CERTIFICATE OF SERVICE**

TO THE HONORABLE COURT:

COMES NOW, Alejandro Oliveras-Rivera, Standing Chapter 13 Trustee, and very respectfully ALLEGES, STATES and PRAYS:

1. Debtor's plan dated July 20, 2010, was confirmed by the Honorable Court.
2. The Trustee respectfully requests that the plan be amended based on the following:

- ☒ IS INSUFFICIENTLY FUNDED TO COMPLY WITH THE PROPOSED DISBURSEMENT SCHEDULE.
- ☐ UNFAIRLY DISCRIMINATES AMONG CLASSIFIED UNSECURED CO-DEBTOR CLAIMS.
- ☐ FAILS LIQUIDATION VALUE TEST; MUST DISTRIBUTE AT LEAST \_\_\_\_, AMONG GENERAL UNSECURED CREDITORS.
- ☒ DOES NOT PROVIDE FOR SECURED CREDITOR: **CRIM**, CLAIM NO. **08**.
- ☐ DOES NOT PROVIDE FOR PRE \_POST PETITION ARREARS TO SECURED CREDITOR \_\_\_\_\_, CLAIM NO. \_\_\_\_\_.
- ☐ Other:

3. Debtor is not a member of the U.S. Armed Forces, the Coast Guard, the Public Health Service or the National Oceanic and Atmospheric Administration, as evidenced by the Certificate issued by the U.S. Department of Defense, copy of which is attached only to the original of this motion and movant's copy.

**WHEREFORE**, it is respectfully requested from this Honorable Court to:

**ORDER THE DEBTOR TO MODIFY THE PLAN ACCORDINGLY.**

**21 DAY NOTICE TO ALL CREDITORS AND PARTIES IN INTEREST :** YOU ARE HEREBY NOTIFIED THAT YOU HAVE TWENTY ONE (21) DAYS FROM THE DATE OF THIS NOTICE TO FILE AN OPPOSITION TO THE FOREGOING MOTION AND TO REQUEST A HEARING. IF NO OPPOSITION IS FILED WITHIN THE PRESCRIBED PERIOD OF TIME, THE TRUSTEE'S MOTION WILL BE DEEMED UNOPPOSED AND MAY BE GRANTED WITHOUT FURTHER HEARING UNLESS (1) THE REQUESTED RELIEF IS FORBIDDEN BY LAW; (2) THE REQUESTED RELIEF IS AGAINST PUBLIC POLICY; OR (3) IN THE OPINION OF THE COURT, THE INTEREST OF JUSTICE REQUIRES OTHERWISE. IF A TIMELY OPPOSITION IS FILED, THE COURT WILL SCHEDULE A HEARING AS A CONTESTED MATTER.

CERTIFICATE OF SERVICE: I hereby certify that on this date I electronically filed the above document with the Clerk of the Court using the CM/ECF System which sends notification of such filing to all those who in this case have registered for receipt of notice by electronic mail. I further certify that the foregoing has been served to U.S. Trustee at [ustpregion21.hr.ecf@usdoj.gov](mailto:ustpregion21.hr.ecf@usdoj.gov) and by depositing true and correct copies thereof in the United States Mail, postage prepaid, to debtor(s), debtor(s) attorney.

**RESPECTFULLY SUBMITTED** at San Juan, Puerto Rico, this **DEC 07 2010**

**S/ALEJANDRO OLIVERAS RIVERA**  
ALEJANDRO OLIVERAS RIVERA  
Chapter 13 Trustee  
PO Box 9024062, San Juan, PR 00902-4062  
Phone 787-977-3500 Fax 787-977-3521

Department of Defense Manpower Data Center

Dec-07-2010 04:01:30



Military Status Report  
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
CASTRO NIEVES	GILBERTO	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.  
Report ID:8AE5GQP8I5

Department of Defense Manpower Data Center

Dec-07-2010 04:03:40



Military Status Report  
Pursuant to the Service Members Civil Relief Act

◀ Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
MUNOZ VINUEZA	LILIA MARIA	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

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Report ID:VQGCLN6GOT

The undersigned hereby certifies that a true copy of the foregoing document was mailed by first class mail or electronically sent to the parties listed below:

JIMENEZ QUINONES LAW OFFICES\*

THE HATO REY CENTER  
268 PONCE DE LEON AVE STE 1118  
SAN JUAN, PR 00918

GILBERTO CASTRO NIEVES and LILIA MARIA MUNOZ VINUEZA  
PO BOX 79724  
CAROLINA, PR 00984-9724

DATED: DEC 07 2010

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S/DIANA ARROYO

OFFICE OF THE CHAPTER 13 TRUSTEE